



U.S. Department of Justice
Acting United States Attorney
District of New Jersey

970 Broad Street, Suite 700
Newark, New Jersey 07102

(973) 645-2700

August 7, 2017

VIA ECF AND ELECTRONIC MAIL

The Honorable Esther Salas
United States District Court
Martin Luther King, Jr. Federal Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: United States v. Farad Roland
Crim. No. 12-298 (ES)

Dear Judge Salas:

The Government respectfully submits this letter to withdraw, in part, its letter motion to strike portions of Defendant's Proposed Findings of Fact and Conclusions of Law (Docket Entry 434).

The Government is in receipt of Mr. Bachrach's letter, dated August 7, 2017. The Government concedes error with regard to Paragraphs 245, 246, and 262, and respectfully apologizes both to the Court and to defense counsel. The citation in those paragraphs was confusing, and gave the impression that two documents were being cited. Nevertheless, it is our error, and we withdraw our motion to strike as to those paragraphs.

With regard to the remaining paragraphs, the fact that certain articles were cited to in expert reports and/or CV's does not put them into the record independently. For those articles to be placed into the record, they needed to be marked and admitted as exhibits – as was done with dozens of other articles during the course of the hearing. Alternatively, the articles could have been discussed during the testimony while Drs. McGrew or Greenspan were on the stand.

Defendant's Proposed Findings of Fact and Conclusions of Law did not cite to the reports or CV's which were in evidence. Likewise, it did not cite to the testimony during which the witnesses explained these articles. Rather, Defendant cited to the articles themselves, even though the articles were never admitted into evidence. Thus, by definition, Defendant cited to evidence which is not in the record.

Therefore, the Government maintains its motion to strike with regard to Paragraphs 171, 172, 248, and 695.

Respectfully Submitted,

WILLIAM E. FITZPATRICK
Acting United States Attorney

By. 

JAMES B. NELSON
Special Assistant U.S. Attorney
ROBERT L. FRAZER
Assistant U.S. Attorney

cc: Stephen Turano, Esq. (by email)
Richard Jasper, Esq. (by email)
Michael Bachrach, Esq. (by email)
Susan K. Marcus, Esq. (by email)